

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WESTERN HERITAGE INSURANCE COMPANY  
9200 East Pima Center Parkway  
Suite 350  
Scottsdale, AZ 85258,

Plaintiff

v.

CENTURY SURETY COMPANY

Defendant.

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NOTICE OF REMOVAL

Civ.

1. Pursuant to 28 U.S.C. Section 1446(a), defendant, Century Surety Company (“Century”), by its attorneys, Hurwitz & Fine, P.C., hereby gives notice of the removal of this action from the State of New York, Supreme Court, County of New York, to the United States District Court for the Southern District of New York.

2. Pursuant to Rule 81.1 of the Local Rule of Civil Procedure, annexed hereto as **Exhibit A** is a listing of the domiciles of the parties.

3. A copy of plaintiff’s Summons and Complaint filed in the State Court action is annexed hereto as **Exhibit B**.

4. According to plaintiff’s Complaint, defendant issued a policy of liability insurance to non-party, Empire Builders and Developers, Inc.

5. On or about April 8, 2008, an incident is alleged to have occurred on property where it is alleged that Empire Builders and Developers, Inc. was a general contractor. It is alleged that at that premises/job site, Wilmer Casteneda was injured. Plaintiff made a claim to defendant that defendant was required to contribute to Empire Builders and Developers, Inc. defense and indemnification costs. However, defendant denied Plaintiff’s claim for co-insurance

for a number of reasons, including the applicability of an "Other Insurance" provision contained in the Century Surety Company policy.

6. The amount in controversy exclusive of interests and costs, exceeds Seventy Five Thousand and 00/100 Dollars (\$75,000.00).

7. Plaintiff was and is incorporated in the State of Arizona with its principal place of business in the State of Arizona at 9200 East Pima Center Parkway, Suite 350, Scottsdale, Arizona.

8. Century is incorporated in the State of Ohio with its principle place of business in the State of Michigan.


9. Pursuant to 28 U.S.C. Section 1332(c)(1), a corporation shall be deemed to be a citizen of any state by which it has been incorporated and of the state where it has its principle place of business.

10. Century is entitled to remove this action pursuant to 28 U.S.C. Section 1446(a), since the District Court has original jurisdiction over the action pursuant to 28 U.S.C. Section 1332(a)(1), based upon the parties' diversity of citizenship and its monetary threshold.

**WHEREFORE**, defendant, Century Surety Company, hereby removes this action from the State of New York, Supreme Court, County of New York, to the United States District Court for the Southern District of New York.

DATED: Buffalo, New York  
September 27, 2013

HURWITZ & FINE, P.C.



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